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Fish and Game Commission



Sonke Mastrup, Executive Director
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December 28, 2012

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to subsection (c) of Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing, which will be published in the California Regulatory Notice Register on December 28, 2012.

This is the first of two notices relating to ocean salmon sport fishing and pertains only to the ocean salmon sport fishing regulations for April 2013. A separate notice pertaining to the remainder of the 2013 ocean salmon sport fishing regulations will also be published in the California Regulatory Notice Register on December 28, 2012.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Mr. Paul Hamdorf, Acting Marine Region Manager, Department of Fish and Game, phone (562) 342-7210, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend subsection (c) of Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Recreational Fishing – **April Season**.

Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the Federal regulations to achieve optimum yield in California under the Federal Salmon Fishery Management Plan. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these Federal fishery management goals.

On May 1, 2012, NMFS implemented the 2012 Federal ocean salmon regulations, which included the PFMC's recommendation to open the California ocean salmon recreational fishing season south of Horse Mountain on April 6, 2013. While Federal waters south of Horse Mountain will open on April 6, 2013, State waters in this area will not open unless the Commission takes regulatory action to do so.

Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013. The proposed regulation would amend subsection 27.80 (c), establishing salmon fishing regulations for the month of April, 2013. Recreational salmon fishing regulations for May 1 through the end of 2013 will be considered in a separate rulemaking action, tentatively scheduled for adoption in April 2013.

Present Regulations

Current regulations [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing north of Horse Mountain including Humboldt Bay from May 1 to September 9, 2012. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was allowed from April 7 to November 11, 2012. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 7 to October 7, 2012. For all areas in 2012, the bag limit was 2 fish per day (all species except coho). All areas north of Point Arena had a minimum size limit of 20 inches total length. All areas south of Point Arena had a minimum size limit of 24 inches total length through July 5, 2012 and 20 inches total length thereafter. Since the existing regulations pertained only to the 2012 season, amendment of these regulations is essential to allow for any fishing in State waters during 2013.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game is proposing three regulatory options to encompass all possible actions that would, or

would not, allow for salmon fishing in the month of April 2013 in various areas of California for Commission consideration:

Option 1 – Varied season dates and regulations in all areas. The ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect April 6 through April 30, 2013. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in Federal ocean waters.

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2013 season will be decided in April by the PPMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may open on a date within the range of April 6 through April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.
- (5) For the areas south of Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.

Option 2 - No fishing in all areas. This is the same as the no change alternative as all ocean salmon recreational fishing seasons are currently closed pursuant to Section 27.80 regulations. If adopted, the regulatory text of Option 2 would specifically establish 2013 closed areas.

Option 3 - A possible combination of Options 1 and 2 may be developed after more information is available from the NMFS and PPMC. This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures of some but not all areas.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has authority to adopt sport fishing regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mount Shasta Hatchery Museum, 3 North Old Stage Road, Mount Shasta, California, on Wednesday, March 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before February 24, 2013 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 p.m. on March 4, 2013. All comments must be received no later than March 6, 2013, at the hearing in Mount Shasta, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Paul Hamdorf, Acting Manager of the Marine Region, Department of Fish and Game, phone (562) 342-7210, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment::

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission anticipates benefits to the State's Environment in the sustainable management of ocean salmon resources. The Commission anticipates benefits to health and safety of California residents in that providing salmon fishing opportunities encourages consumption of a nutritious food.

Additional benefits of the proposed regulations are concurrence with Federal law, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate benefits to worker safety.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: December 18, 2012

Sonke Mastrup
Executive Director